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In re Application of
Rohde et al.
Application No. 10/538,536
PCT No.: PCT/EP03/13914
Int. Filing Date: 09 December 2003
Priority Date: 10 December 2002
Atty. Docket No.: LU 6075 (US)
For: Supported Chromium Catalyst And
Its Use For Preparing Homopolymers
And Copolymers Of Ethylene

COMMUNICATION

This is in response to the petition under 37 CFR 1.10(d) filed on 25 July 2005.

BACKGROUND

This international application was filed on 09 December 2003, claimed an earlier priority date of 10 December 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 24 June 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 10 June 2005.

DISCUSSION

Petitioner requests that "the Office change the filing date of this application from June 11, 2005 to June 10, 2005" pursuant to 37 CFR 1.10(d), which provides that

Any person mailing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;*
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and*
- (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.*

The instant petition satisfies the requirements of 37 CFR 1.10(d)(1).

Regarding 37 CFR 1.10(d)(2), the original copy of an "Express Mailing Certificate" attached to the correspondence in question is present in the application file, and bears Express Mail mailing label number ER935731504US, and is being accepted in satisfaction of 37 CFR 1.10(d)(2).


Regarding 37 CFR 1.10(d)(3), the petition is accompanied by a copy of Express Mail mailing label number ER935731504US which bears a "Date-In" of "6 11 05," rather than 10 June 2005 as requested by petitioner. The petition is also accompanied by a print-out of a from the USPS "Track/Confirm - Intranet Item Inquiry - Domestic" page which reflects an "ACCEPT OR PICKUP" date of "06/10/2005." This evidence is supplemented by a statement by Allen E. Conklin of the USPS. Based on the totality of the evidence presented, it would be appropriate to grant the requested relief.

The transmittal letter, declaration of the inventors, fee payments, assignment, application data sheet and preliminary amendment included in the correspondence in question and originally marked as filed on 11 June 2005 are, pursuant to 37 CFR 1.10(d), being regarded as filed on 10 June 2005.

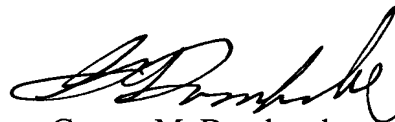
DECISION

The petition under 37 CFR 1.10(d) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **10 June 2005**.



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